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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,758	12/31/2003	Donald Aldridge	520219-301	9109

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EXAMINER

HOEY, ALISSA L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,758

Applicant(s)

ALDRIDGE ET AL.

Examiner

Alissa L. Hoey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) 25-39, 44, 45 and 53-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 14, 24, 40-43, 46-52 and 58-60 is/are rejected.
- 7) ☒ Claim(s) 11-13 and 15-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>06/26/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group A, claims 1-24, 40-43, 46-52 and 58-60 in the reply filed on 05/18/06 is acknowledged.

Response to Amendment

2. This is in response to amendment received on 02/27/06. Claims 1, 23, 24 and 46 have been amended and claims 48-60 have been newly added. Claims 1-24, 40-43, 46-52 and 58-60 are examined below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-10, 24, 40-43, 46, 48-52 and 58-60 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown Honeysuckle (US 6,058,508).

In regard to claim 1, Brown teaches a height adjustable protective garment (10) comprising an outer shell shaped to fit about and substantially cover the chest, torso and legs of a wearer (figure 1). A waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1 and 3). An adjusting strip (22, 24) having an attachment portion (34, 36, 38) directly or indirectly coupled to the outer shell and a free end (32) which is generally spaced apart from the attachment portion. The free end (32) being releasably attachable to the outer shell or to the strip of material to adjust the height of

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the protective garment (figures 2A, 2B and 4). The adjusting strip (22, 24) being located at or adjacent to the waist portion (figures 1 and 3). Wherein the adjusting strip (22,24) is located on an outer surface of the outer shell such that the adjusting strip can be easily accessed when the outer shell is worn (figures 1-6).

In regard to claim 2, Brown teaches the adjusting strip (22,2 4) including a base portion (28) fixedly coupled to the outer shell (16) and spaced apart from the attachment portion (34, 36, 38). The attachment portion (24, 26, 28) is located between the base portion (28) and the free end (32).

In regard to claim 3, Brown teaches the adjusting strip (22,24) being shaped and located such that when the free end (32) is releasably attached to the outer shell or to the strip of material the attachment portion pulls the portions of the outer shell to which the attachment portion is coupled generally upwardly to reduce the height of the garment (figures 2A, 2B).

In regard to claim 4, Brown teaches the adjusting strip (22, 24) being formed in a generally closed loop shape when the free end (32) is releasably attached to the outer shell or to the adjusting strip (figures 2A, 2B, 1 and 3).

In regard to claim 5, Brown teaches the adjusting strip (22, 24) being releasably attachable to itself to form the generally closed loop shape (figures 2A, 2B, 3 and 5).

In regard to claim 6, Brown teaches the adjusting strip (22, 24) including first and second portions of hook and loop fastening material which are releasably attached when the strip of material is formed into the generally closed loop shape (column 3, lines 6-21).

In regard to claim 7, Brown teaches the adjusting strip (22, 24) including a base portion (28) fixedly coupled to the outer shell (16) and spaced apart from the attachment portion (34, 36, 38). The attachment portion (34, 36, 38) being located between the base portion (28) and the free end (32). Wherein the first portion of hook and loop fastening material (34) is located on or adjacent to the base portion (28) and wherein the second portion of hook and loop fastening material (32) is located on or adjacent to the free end (26).

In regard to claim 8, Brown teaches the adjusting strip (22, 24) being releasably attachable to the outer shell to form the generally closed loop shape (figures 1-5).

In regard to claim 9, Brown teaches the garment including first and second portions of hook and loop fastening material which are releasably attachable to form the adjusting strip into the generally closed loop shape (column 3, lines 6-21). The first portion of hook and loop fastening material (34) is located on the outer shell (16) and wherein the second portion of hook and loop fastening material (32) is located on or adjacent to the free end (26).

In regard to claim 10, Brown teaches the garment having a central axis extending generally perpendicular to the waist of the garment and wherein the adjusting strip (22, 24) is orientated generally parallel to the central axis (Figures 1-5).

In regard to claim 40, Brown teaches the free end (32) being generally spaced apart from the attachment portion (34, 36, 38) along a length of the adjusting strip (22, 24).

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In regard to claim 41, Brown teaches the outer shell including a front portion and a rear portion (figures 1 and 5). The attachment portion (34, 36, 38) is located one of said front or rear portions (figures 1 and 3) and wherein the free end (32) is configured to be releasably attachable to one of the front or rear portions of the outer shell or to the attachment portion (figures 1-5).

In regard to claim 42, Brown teaches the adjusting strip (22, 24) being spaced away from the crotch of the garment when the adjusting strip is formed in the generally closed loop (figures 1, 3 and 5).

In regard to claim 43, Brown teaches the adjusting strip (22, 24) being coupled to the outer shell at a base portion (26) and having a length that is less than the distance between the base portion and crotch of the garment (figures 1, 3 and 5).

In regard to claim 48, Brown teaches the outer shell being a one-piece garment and is configured to fit around and substantially cover the arms of a wearer.

In regard to claim 49, Brown teaches the outer shell including a pair of pant legs, each pant leg being shaped and configured to receive a leg of a wearer there through (figures 1, 3 and 5).

In regard to claim 50, Brown teaches the outer shell including an inner cavity shaped to receive a wearer therein when the outer shell is configured in a proper orientation. The outer shell includes an inner surface located adjacent to and defining the inner cavity and herein the outer surface is positioned on an opposite side of the outer shell relative to the inner cavity (figures 1, 3 and 5).

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In regard to claim 24, Brown teaches a method for adjusting the height of a protective garment comprising the steps of providing a protective garment having an outer shell shaped to fit about the chest, torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1, 3 and 5). The protective garment including and adjusting strip (22, 24) having an attachment portion (34, 36, 38) directly or indirectly coupled to the outer shell and a free end (32) which is generally spaced apart from the attachment portion (34, 36, 38). The adjusting strip (22, 24) is located on an outer surface of the outer shell such that the adjusting strip (22, 24) can be easily accessed when the outer shell is worn (figures 1-5). Releasably attached the free end (32) to the outer shell or to the strip of material to adjust the height of the protective garment (figures 2A, 2B and 4).

In regard to claim 51, Brown teaches the outer shell being a one-piece garment and being configured to fit around and substantially cover the arms of a wearer (figures 1, 3 and 5).

In regard to claim 52, Brown teaches the outer shell including a pair of pant legs, each pant leg being shaped and configured to receive a leg of a wearer there through (figures 1, 3 and 5).

In regard to claim 46, Brown teaches a height adjustable protective garment (10) comprising an outer shell shaped to fit about and substantially cover the chest, torso, and legs of a wearer (figures 1, 3 and 5). A waist portion shaped to be positioned at or adjacent to a waist of a wearer (figures 1, 3 and 5). A height adjusting system positioned at or adjacent to the waist portion of the garment such that the height

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adjusting system is operable to adjust the height of the garment (figures 1-5). The height adjusting system including first and second attachment components which are spaced apart from each other in a height direction of the garment (column 3, lines 6-21). The first and second attachment components are releasably attachable together to adjust the height of the garment (figures 2A, 2B and 4). The first and second attachment components are located on an outer surface of the outer shell such that the first and second components are located on an outer surface of the outer shell such that the first and second attachment components can be easily accessed when the outer shell is worn (column 3, lines 6-21).

In regard to claim 58, Brown teaches the outer shell including a front portion configured to cover the front of the body of a wearer and a rear portion configured to cover the back of the body of the wearer. The first and second components are located on the rear portion (column 3, lines 6-21).

In regard to claim 59, Brown teaches the outer shell including a pair of pant legs each pant leg being shaped and configured to receive a leg of a wearer there through (figures 1, 3 and 5).

In regard to claim 60, Brown teaches a height adjustable protective garment (10). The garment having a front side configured to cover the front side of a wearer when worn and a rear side configured to cover a rear side of a wearer when worn (figures 1, 3 and 5). An outer shell adapted to fit about the chest, torso and legs of a wearer and having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1, 3 and 5). An outer shell shaped to fit about the chest, torso and legs of a wearer and

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having a waist portion shaped to be located at or adjacent to a waist of a wearer (figures 1, 3, and 5). A height adjusting system positioned at or adjacent to the waist portion of the garment such that the height adjusting system is operable to adjust the height of the garment (figures 1-5). The height adjusting system is operable to adjust the height of the garment and includes at least two sets of first and second attachments components (column 3, lines 6-21). The first and second components of each set being spaced apart from each other in a height direction of the garment and the first and second attachment portions of each set are releasably attachable together to adjust the height of the garment (column 3, lines 6-21). One set of the attachment components is located on a front side of the garment and the other set of the attachment components is located on a rear side of the garment (column 3, lines 6-21).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown Honeysuckle.

Brown teaches a height adjustable garment as described above in claims 1 and 46. However, Brown fails to teach the material of the garment being abrasion, flame and heat resistant and the first and second component are both patches of hook-and-loop

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fastening material which do not extend a significant distance around the perimeter of the garment.

In regard to claim 14, it is obvious that all fabrics have are resistant to abrasion, flames and heat to a point.

In regard to claim 47, Brown teaches the attachment means being buttons, or snaps located around the circumference of the waist. It would have been obvious to have provided the multiple buttons or snap fasteners in the form of hook and loop patches located around the circumference of the waist, since hook and loop fasteners, buttons and snaps are all interchangeable securing means in the apparel arts and therefore interchangeable.

Allowable Subject Matter

7. Claims 11-13 and 15-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments with respect to claims 1-24, 40-43, 46-52 and 58-60 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kapp et al. and Teasley are all cited to show closely related garment articles.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

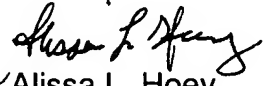
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alissa L. Hoey whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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